

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PURDUE PHARMA PRODUCTS L.P., and)	
NAPP PHARMACEUTICAL GROUP LTD.,)	
)	
Plaintiffs,)	Civil Action Nos. 08-cv-827-KAJ
)	and 08-cv-519-KAJ (consolidated)
v.)	
)	Judge Kent A. Jordan
IMPAX LABORATORIES, INC.,)	
)	
Defendant.)	

STIPULATION AND ORDER REGARDING DISMISSAL OF SUIT

WHEREAS U.S. Patent Nos. 6,254,887 ('887 patent), 5,591,452 ('452 patent) and 6,326,027 ('027 patent) have been asserted against Defendant/Counter-claim Plaintiff Impax Laboratories, Inc. ("Impax") in this action for patent infringement based on the Impax proposed extended-release tramadol product(s) that is the subject of Abbreviated New Drug Application (ANDA) No. 90-522 (including any supplements and amendments thereto);

WHEREAS U.S. Patent No. 7,074,430 ('430 patent) was previously asserted against Impax in this action and was dismissed without prejudice on July 21, 2009 in view of the parties' stipulation that the subject of ANDA No. 90-522 does not infringe the '430 patent;

WHEREAS on June 3, 2010, the Federal Circuit affirmed the decision in *Purdue v. Par*, C.A. No. 07-255-KAJ ("*Par*") that asserted claims in the '887 patent and the '430 patent directed to 24-hour tramadol formulations in *Par* are invalid;

WHEREAS the '887 patent asserted in this action was adjudicated in *Par*, and the '452 and '027 patents asserted in this action are also directed to 24-hour tramadol formulations and are in the same patent family as the '887 and '430 patents that were adjudicated in *Par*;

WHEREAS Plaintiffs/Counterclaim-defendants Purdue Pharma Products L.P. and Napp Pharmaceutical Group Ltd. (collectively “Plaintiffs”) and Impax have agreed to dismiss all remaining claims and counterclaims in this action;

IT IS HEREBY STIPULATED AND AGREED, subject to the approval of the Court that:

1. The claims asserted in this action are hereby dismissed with prejudice with respect to ANDA No. 90-522 (including any supplements and amendments thereto);
2. The remaining counterclaims asserted in this action are hereby dismissed without prejudice;
3. As a result of dismissal of this action, there remains no actual controversy between the parties regarding the validity or enforceability of the ‘452, ‘887, ‘027, and ‘430 patents;
4. Each party shall bear its own attorneys’ fees, expenses and costs; and
5. Impax shall not rely on this stipulation with respect to any claim of invalidity, unenforceability, or non-infringement of any patent other than the ‘452, ‘887, ‘027, and ‘430 patents based on a claim of waiver, estoppel, exhaustion or any other theory. Nothing herein grants any rights, express or implied, to any intellectual property owned by Plaintiffs.

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Dated: September 1, 2010

IT IS SO ORDERED this _____ day of _____, 2010.

HONORABLE KENT A. JORDAN
UNITED STATES CIRCUIT JUDGE